



# Crofters (Scotland) Act 1993

## 1993 CHAPTER 44

### *Succession to croft*

#### **10 Bequest of croft.**

[<sup>F1</sup>(1) A crofter may, by will or other testamentary writing, ]

- [<sup>F2</sup>(a) bequeath the tenancy of the whole of the crofter's croft to any one natural person; or
- (b) bequeath the tenancy of that croft to two or more natural persons provided that—
  - (i) each person would come into the place of the crofter in relation to the tenancy of part of the croft; and
  - (ii) no part of the croft would, were all the bequests accepted, be untenanted.]

[<sup>F3</sup>(2) A person to whom the tenancy of a croft (or of part of a croft) is bequeathed (in this section, the “legatee”) must, if the legatee accepts the bequest—

- (a) give notice of the bequest to the landlord; and
- (b) send a copy of the notice to the Commission,

before the end of the period of 12 months beginning with the death of the crofter.]

[<sup>F4</sup>(2A) Notice under subsection (2) above of the bequest may be given by an executor of the deceased crofter authorised for that purpose by the legatee.]

[<sup>F5</sup>(3) The bequest is null and void if—

- (a) in the case of a bequest such as is mentioned in subsection (1)(a), no notice is given (and no copy sent) in accordance with subsection (2) or (2A);
- (b) in the case of a bequest such as is mentioned in subsection (1)(b), any legatee fails to give notice (and send a copy) in accordance with subsection (2) or (2A).

(4) Where, in the case of a bequest as is mentioned in subsection (1)(a), notice is given (and a copy sent) in accordance with subsection (2) or (2A), the legatee comes into the

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place of the deceased crofter (as from the date of death of that crofter) on the relevant date of registration.

(4A) Where—

- (a) a crofter bequeaths the tenancy of a croft as mentioned in subsection (1)(b); and
- (b) each legatee gives notice (and sends a copy) in accordance with subsection (2) or (2A),

the deceased crofter's executor must apply to the Commission for consent under section 9 to divide the croft accordingly.

(4B) Where the Commission give their consent to the division of the croft under section 9, each legatee comes into the place of the deceased crofter in relation to that legatee's new croft (as from the date of death of that crofter) on the relevant date.

(4C) The bequest is null and void if—

- (a) the Commission do not give their consent to the division of the croft under section 9; or
- (b) such consent is given but an application for registration of the division is not made in accordance with subsection (3)(a) of that section.]

<sup>F5</sup>(4D) .....

(4E) [<sup>F6</sup>Subject to subsection (4EA),] A legatee who comes into the place of a deceased crofter in accordance with subsection [<sup>F7</sup>(4) or, as the case may be, (4B)] above, in doing so—

- (a) becomes liable for such debts of the deceased crofter's estate as are attributable to the tenancy; and
- (b) shall, if requested to do so by the executor, pay the reasonable expenses necessarily and wholly incurred by the executor in relation to the administration and management of the tenancy during the period beginning with the date of the deceased crofter's death and ending immediately before the date when the legatee so comes into the place of the deceased crofter; and such expenses—
  - (i) shall, in the event of a dispute as to amount, be determined by the Land Court on the application of the executor or the legatee; and
  - (ii) shall not fall to be met from the deceased crofter's estate.

[<sup>F8</sup>(4EA) Where, as a result of the Commission giving their consent to the division of the croft under section 9, two or more legatees come into the place of the deceased crofter, those legatees are jointly and severally liable for—

- (a) the debts mentioned in subsection (4E)(a); and
- (b) any expenses mentioned in subsection (4E)(b).]

(4F) Notwithstanding that a legatee comes into the place of the deceased crofter as mentioned in subsection (4E) above, the tenancy is an asset of the deceased crofter's estate, available along with the other assets of the estate to meet the other expenses of administration, and debts, of the estate; and any such legatee is liable to contribute to such expenses and debts accordingly.

(5) If the bequest becomes null and void under this section, the right to the croft shall be treated as intestate estate of the deceased crofter in accordance with Part I of the 1964 Act.

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(6) Subject to the foregoing provisions of this section, any question arising with respect to the validity or effect of the bequest shall be determined by any court having jurisdiction to determine the validity and effect of the whole testamentary writings of the deceased crofter.

[<sup>F9</sup>(7) In subsection (4), the “relevant date of registration” is—

- (a) where the croft was unregistered, the date of registration in relation to the application for registration of the croft by virtue of section 4(4)(e) of the 2010 Act;
- (b) where the croft was registered, the date of registration in relation to the application for registration of the notice by virtue of section 5(3)(e) of that Act.

(8) In subsection (4B)—

“legatee's new croft” means the new croft, formed by division under section 9, which corresponds to the part of the original croft bequeathed to the legatee (“division”, “new croft” and “original croft” being construed in accordance with section 9(6));

“relevant date” means—

- (a) where the croft was unregistered, the date the Keeper receives notification of the Commission's consent to divide the croft by virtue of section 10(7) of the 2010 Act;
- (b) where the croft was registered, the date of registration in relation to the application for registration of the division by virtue of section 5(3)(d) (i) of that Act.]

#### Textual Amendments

- F1** S. 10(1) substituted (28.1.2008) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 13(2)**, 43(3) (with **ss. 40**, 43(2)); [S.S.I. 2007/568](#), art. 2
- F2** Words in s. 10(1) substituted (1.10.2011) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), **ss. 49(2)**, 57(2) (with [s. 57\(4\)](#)); [S.S.I. 2011/334](#), art. 3, sch. Pt. 1 (with arts. 45(3))
- F3** S. 10(2) substituted (1.10.2011) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), **ss. 49(3)**, 57(2) (with [s. 57\(4\)](#)); [S.S.I. 2011/334](#), art. 3, sch. Pt. 1 (with arts. 45(3))
- F4** S. 10(2A)-(2D) inserted (28.1.2008) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 13(4)**, 43(3) (with **ss. 40**, 43(2)); [S.S.I. 2007/568](#), art. 2
- F5** S. 10(3)-(4C) substituted for s. 10(2B)-(4D)(1.10.2011 for specified purposes, 30.11.2012 in force in so far as not already in force) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), **ss. 49(4)**, 57(2) (with [s. 57\(4\)](#)); [S.S.I. 2011/334](#), art. 3, sch. Pt. 1 (with arts. 4, 5(3)); [S.S.I. 2012/288](#), art. 3(1)(b), (2), sch. 1 Pt. 2
- F6** Words in s. 10(4E) inserted (1.10.2011) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), **ss. 49(5)(a)**, 57(2) (with [s. 57\(4\)](#)); [S.S.I. 2011/334](#), art. 3, sch. Pt. 1 (with arts. 45(3))
- F7** Words in s. 10(4E) substituted (1.10.2011) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), **ss. 49(5)(b)**, 57(2) (with [s. 57\(4\)](#)); [S.S.I. 2011/334](#), art. 3, sch. Pt. 1 (with arts. 45(3))
- F8** S. 10(4EA) inserted (1.10.2011) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), **ss. 49(6)**, 57(2) (with [s. 57\(4\)](#)); [S.S.I. 2011/334](#), art. 3, sch. Pt. 1 (with arts. 45(3))
- F9** S. 10(7)(8) inserted (30.11.2012) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), **ss. 49(7)**, 57(2) (with [s. 57\(4\)](#)); [S.S.I. 2012/288](#), art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 8)

**Changes to legislation:**

There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 10.